

MINUTES of a meeting of the **REGULATORY, LICENSING & APPEALS COMMITTEE** held on **11 SEPTEMBER 2017** at County Hall, Matlock

PRESENT

Councillor R A Parkinson (in the Chair)

Councillors: R Ashton, C Dale, J Frudd, J Innes, P Makin, J Perkins, C Short, & M Wall.

Apologies for absence were submitted on behalf of Councillor D Taylor.

21/17 **MINUTES RESOLVED** that the minutes of the meeting held on 24 July 2017 be received.

22/17 **PROPOSED DIVERSION OF PUBLIC FOOTPATH No 26 (PART) FORMERLY IN THE PARISH OF MATLOCK, NOW IN THE PARISH OF DARLEY DALE** Authority was sought for the Director of Legal Services to make a Diversion Order for the permanent diversion of part of Public Footpath No. 26, formerly in the Parish of Matlock, now in the Parish of Darley Dale, in the interests of the safety of the public using it or likely to use it.

An informal consultation had been undertaken on this proposal in which it was stated that it was proposed to use Section 119 of the Highways Act 1980. For legal reasons, it was now proposed to use Section 119A, and as the route of the proposed path remained the same and the legal tests for Section 119A were less stringent than Section 119, it was not deemed necessary to undertake a further consultation with regard to this procedural change.

The existing footpath crossing was considered to be unsatisfactory due to safety concerns and the fact that it was very steep and uneven. The Strategic Director of Economy, Transport and Communities wished to undertake a permanent diversion of the footpath onto a safer, more accessible private crossing of the railway line in the vicinity, in the interests of the public. Public Footpath No. 26 connected with a number of footpaths on the western side of the railway and was also intended to form part of the White Peak Loop multi-user trail which was to run from Matlock to Bakewell. A means of crossing the railway was therefore needed in this locality. It was proposed, subsequently, to convert the diverted part of the footpath into a cycle track to connect with the rest of the cycle path along the railway corridor, which had been agreed with the relevant parties. The proposed diversion would provide

a much safer route for cyclists. The Office of Rail and Road, the regulatory body for safety on the railways, supported the proposal.

If the proposed diversion takes effect, it would divert approximately 103 metres of that part of the footpath shown as a bold solid line between points **A** and **B** on the attached plan. The proposed alternative would be approximately 150 metres long, shown as a bold broken line between points **C-D-E-B**. To facilitate safer crossing and to prevent cycles from being ridden across the track, there would be chicane barriers on both sides. In order to comply with equality legislation, these would be designed to accommodate mobility scooters. The surface of the path would be of rolled stone with tarmac at the roadside entrance and through the chicane barriers up to the rails. Between the rails would be a rubberised surface recommended for the purpose. The path would have a recorded width of 3 metres.

No objections were received to the proposed Section 119 diversion when informal consultations were carried out between 6 December 2016 and 3 January 2017. The diversion was supported by Derbyshire Dales District Council which owned the land crossed by the rail track. Peak Rail had not objected to the scheme but had concerns over the safe operation of the new crossing. The then local Member, Councillor Joanne Wild, and Darley Dale Town Council have been consulted and have lodged no objections to the proposal.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary Order to divert Public Footpath No. 26 (part), formerly in the Parish of Matlock, now in the Parish of Darley Dale under Section 119A of the Highways Act 1980;

(2) That the order was not confirmed until an agreement is in place between the Council and Peak Rail over the safe operation of the new crossing that would be created; and

(3) that should objections be received to the making of the Order that could not be resolved, then the matter be forwarded to the Secretary of State for determination.

23/17 THE WILDLIFE AND COUNTRYSIDE ACT 1981 – CLAIM TO VARY THE PARTICULARS OF PUBLIC FOOTPATH NO 14 - RIPLEY

Members were asked to determine an application to amend the Definitive Map and Statement by varying the particulars of Public Footpath no. 14 in Nether Heage, Ripley by providing that ‘the footpath was depicted on an open route clearly removed from the field boundary’.

An application was received by the Council, in November 1998 to vary the particulars of FP No. 14 in Nether Heage, Ripley to depict the footpath 'on an open route clearly removed from the field boundary – of footpath no. 14 on route from Shop Lane to the corner of the first field from Shop Lane. The claim is accompanied by 50 user evidence forms (UEFs), various photographs, correspondence and copies of documents relating to the matter. Through subsequent correspondence, the applicant's son has suggested a very precise description of the route as he would request it be recorded on the Definitive Map & Statement.

“by providing that the footpath was depicted on an unbounded and open route clearly removed from the driveway/field boundary with 42 Shop Lane. This route being depicted more precisely by a larger scale Plan to be attached to the Definitive Map upon which Plan the course of the footpath is shown to commence at its junction with Shop Lane at a distance of 3.1 metres in a northerly direction along Shop Lane measured from the extreme northwest corner of the land comprising the property 42 Shop Lane. The footpath being then depicted on the said Plan as proceeding easterly towards its junction with footpath 13 on a route displaced from the boundary of the driveway/field with 42 Shop Lane the extent of this displacement being established at finite points along the said boundary according to the documentary evidence of the historic legal line of the footpath that has been submitted in conjunction with this application and more particularly according to the measurements obtained from this evidence that are illustrated in the accompanying documents entitled Plan of R.O.W. 14 and entitled Table accompanying Plan of Right of Way 14”

The route was recorded on the Definitive Map & Statement as a footpath which was publicly maintainable. Two plans showing the route were attached to the Strategic Director's report, one showing the whole footpath and the second showing the area in question in more detail.

The applicant alleged that the line of the path near its terminus on Shop Lane, Heage (Point A on the plan appended) was moved when a property was built on the land adjacent to the path in the 1980's. One of the user evidence forms stated that the route was diverted '15 years ago' which would equate to 1983. However, the claim was to vary the particulars of the Definitive Map and the user evidence was submitted as evidence to support the applicants' contention that the route on the ground did not coincide with the legal line of the path, not as proof of use.

The Council had consulted with Ripley Town Council, Amber Valley Borough Council and the then local elected member, Cllr Dave Williams between 20 April and 04 May 2016. Following the consultation, no evidence was received either in favour of or in objection to the application. There was a

series of correspondence with Ripley Town Council and in their final email the Town Council stated, 'It was important that the footpath was accessible to the public freely'.

The Director of Legal Services summarised all of the available evidence as detailed in the report and gave his conclusions to the committee.

RESOLVED to reject the application to make an Order under Section 53 of the Wildlife and Countryside Act 1981 to amend the Definitive Map and Statement by varying the particulars of Ripley Footpath 14.